

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

SANDRA HARVEY,

Plaintiff,

vs.

MARYWOOD UNIVERSITY

Defendant.

CIVIL ACTION NO.

**NOTICE AND PETITION FOR
REMOVAL OF A CIVIL ACTION
FROM THE COURT OF
COMMON PLEAS OF
LACKAWANNA COUNTY,
PENNSYLVANIA**

To: Peter J. Welsh
Clerk of Court
U.S. District Court for the Middle District of Pennsylvania
William J. Nealon Federal Bldg. & U.S. Courthouse
235 N. Washington Avenue
Scranton, PA 18503

Michael R. Goffer, Esquire
Law Offices of Goffer & Cimini
1603 Monsey Avenue
Scranton, PA 18509-1938

Defendant, Marywood University ("Defendant"), pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, respectfully submits this Notice and Petition for Removal of a Civil Action from the Court of Common Pleas of Lackawanna County, Pennsylvania, bearing Case No. 05161-CV-2018 and as grounds for removal alleges as follows:

INTRODUCTION

1. The Court has original jurisdiction over this matter pursuant to

28 U.S.C. §§ 1331 and 1367 because Plaintiff's first cause of action arises under the laws of the United States and Plaintiff's state law claims arise out of the same circumstances as her federal claim. This case may therefore be removed pursuant to 28 U.S.C. § 1441.

TIMELINESS OF REMOVAL

2. Plaintiff, Sandra Harvey ("Plaintiff"), filed a complaint captioned *Harvey v. Marywood University*, bearing Case No. 05161-CV-2018, in the Court of Common Pleas of Lackawanna County, Pennsylvania, on September 24, 2018. A true and correct copy of the complaint is attached hereto as Exhibit A.

3. On October 2, 2018, Defendant accepted service of the complaint.

4. This notice of removal, filed on October 18, 2018, is filed within thirty days after Defendant received the complaint, which is the initial pleading that sets forth the claim for relief upon which Plaintiff's action is based.

5. As such, this notice of removal is timely filed pursuant to 28 U.S.C. § 1446(b)(1), which provides, in relevant part, that "[t]he notice of removal of a civil action or proceeding shall be filed within 30 days after the receipt by the defendant, through service or otherwise, of a copy of the initial pleading setting forth the claim for relief upon which such action or proceeding is based."

REMOVAL BASED ON FEDERAL QUESTION JURISDICTION

7. “[A]ny civil action brought in a State court of which the district courts of the United States have original jurisdiction, may be removed by the defendant or the defendants, to the district court of the United States for the district and division embracing the place where such action is pending.” 28 U.S.C. § 1441(a).

8. This Court has original jurisdiction of this action pursuant to 28 U.S.C. § 1331, which provides that the district courts shall have original jurisdiction of all civil actions arising under the laws of the United States. 28 U.S.C. § 1331. In this matter, Plaintiff alleges, *inter alia*, that Defendant violated h rights under Title IX of the Education Amendments of 1972, 20 U.S.C.A § 1681 *et seq.*, which is a law of the United States. *See* Ex. A, Count III.

9. Further, this Court has supplemental jurisdiction over Plaintiff’s additional causes of action pursuant to 28 U.S.C. § 1367, which states that “the district courts shall have supplemental jurisdiction over all other claims that are so related to claims in the action within such original jurisdiction that they form part of the same case or controversy.” 28 U.S.C. § 1367(a). According to Plaintiff’s complaint, Plaintiff’s federal and state law claims arise from the same set of events. *See* Ex. A.

10. Thus, this action may be removed to this Court pursuant to 28

U.S.C. § 1441(a).

VENUE

11. Pursuant to 28 U.S.C. §§ 1441(a), venue lies in the United States District Court for the Middle District of Pennsylvania because the state action arose and was filed in this District.

NOTICES

12. Defendant has not filed an answer or other pleading in the Court of Common Pleas of Lackawanna County, Pennsylvania.

13. Defendant submits this notice and petition without waiving any defenses to the claims asserted by Plaintiff or conceding that Plaintiff has pleaded claims upon which relief may be granted.

14. Pursuant to 28 U.S.C. § 1446(d), Defendant is giving written notice of the removal of this action to all adverse parties, and is forwarding a copy of this Notice for filing with the Clerk of Judicial Records for the Court of Common Pleas of Lackawanna County, Pennsylvania. A true and correct copy of the Notice of Removal submitted for filing with the Court of Common Pleas of Lackawanna County is attached hereto as Exhibit B.

WHEREFORE, Defendant respectfully requests that the within action, now pending in the Court of Common Pleas of Lackawanna County,

Pennsylvania, be removed to the United States District Court for the Middle District of Pennsylvania.

Respectfully submitted,

JACKSON LEWIS P.C.

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ATTORNEYS FOR DEFENDANT

Dated: October 18, 2018

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Plaintiff,

vs.

MARYWOOD UNIVERSITY

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of Defendant's Notice and Petition for Removal, Civil Cover Sheet, and this Certificate of Service were served upon Plaintiff's counsel, Michael R. Goffer, Esq., at his address located at Law Offices of Goffer & Cimini, 1603 Monsey Avenue, Scanton, PA 18509, via overnight mail, on this 18th day of October, 2018.

JACKSON LEWIS P.C.

By: s/Eileen K. Keefe
Eileen K. Keefe (PA #93194)